

May 31, 2019

Mr. Henry A. Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, Maryland 21057

Re: Sagamore Spirits Aging Barns-Phase 2
Forest Conservation Special Variance
Tracking #07-19-3013

Dear Mr. Leskinen:

A request for a variance from Baltimore County's Forest Conservation Law was received by the Department of Environmental Protection and Sustainability (EPS) on July 5, 2016. The site, formerly known as the Siemens Property, comprises approximately 17.1 acres. It is located on the west side of North Point Boulevard (MD Rout 151), just north of the intersection with Morse Lane, in the Dundalk section of Baltimore County. The project site has been previously improved with a large building, access lanes and parking lots. The project area contained three distinct forest stands which encompassed approximately 9.5 acres, according to the approved Forest Stand Delineation (FSD). The forest onsite has been determined to be moderate priority for retention, based on its structure.

The proposed project involves the re-development of the former Siemens Metals building into a whiskey aging facility for Sagamore Spirits. The project is being constructed in phases. Phase 1 involved the construction of a whiskey aging barn, a spill containment basin and parking lots. This phase, Phase 2, proposes construction of a second whiskey aging building, including expansion of the spill containment basin, which requires the removal of one specimen tree, and which is the subject of this variance request. The specimen tree, identified on the approved forest stand delineation as Tree H, is a 34-inch diameter at breast height Eastern cottonwood (*Populus deltoids*) in poor condition.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. Phase 2 of the project involves the construction of a second whiskey aging building and the expansion of a spill containment basin. As part of Phase 1, an emergency containment pond has been incorporated into the site development proposal to capture product from the facility should there be an accident thereby not endangering or contaminating adjacent properties. The containment pond was sized to accommodate Phase 1 and requires expansion for Phase 2. The location of the containment pond is dictated by the required locations of the proposed aging barns, which have minimum setback distances from each other for fire protection. A portion of the proposed containment pond expansion impacts one specimen tree.

Alternates were explored but were rejected for the reasons stated above. Failure to grant the variance would not deprive the applicant of all beneficial use of the property. Therefore, this criterion is not met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The variance request arises from the unique circumstances regarding the locations of the specimen trees on the site, the area of the property that can be developed, proposed locations of the necessary facilities for this type of development proposal, and infrastructure requirements. The development proposal is based on these unique conditions of the property, and not from general conditions of the neighborhood, therefore, this criterion is met.

The third criterion (Subsection 33-6-116 (d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The subject property was originally developed by Siemens for industrial use. All of the properties immediately adjacent to the subject property consist of industrial development. The granting of the variance to allow for re-development of the site as a whiskey aging facility is consistent with adjacent development and will not alter the essential character of the neighborhood. Therefore, the proposed development of the site would be compatible with the neighborhood, and this criterion is met.

The fourth criterion (Subsection 33-6-116 (e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Water resources do not occur on the site, nor are development activities proximal to any stream or wetland systems. The large containment pond will capture site runoff from around the building, providing some water quality treatment, and sediment control measures will be provided, minimizing adverse impacts to water quality. Therefore, this criterion is met.

The fifth criterion (Subsection 33-6-116 (e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. This variance request is based upon the presence and locations of the specimen tree on the project site, as well as building separation standards for fire protection. The petitioner has not taken any action on the property that would necessitate this variance request. Therefore, this criterion is met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Portions of the subject site were previously developed and the re-development proposes to utilize the existing building. None of the forest to be removed is considered high priority for retention. One specimen tree is proposed to be impacted during this phase of the development. Removal of this tree is unavoidable given the need to construct a large containment pond, as a safeguard against accidental spills, and the required separation distance between buildings for fire protection. The granting of the special variance to remove these trees is not inconsistent with the spirit and intent of the regulations, given these factors, the condition of the forest onsite, and the fact that the applicant will mitigate for the impacts. Therefore, this criterion is met.

Based upon our review, this Department finds that the required variance criteria have been met for the removal of one specimen tree for this phase of the project, identified on the plan and herein, as Tree H. Therefore, the variance is hereby approved for the removal of that one specimen tree, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

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1. A preliminary Forest Conservation Plan must be approved for this phase of the project. The plan has been received by this Department and is pending review. No mitigation is required due to the poor condition of the specimen tree.
2. The following note must be added to all future plans for this project, which states: "A Forest Conservation Special Variance was granted by the Baltimore County Department of Environmental Protection and Sustainability to allow for the removal of one specimen tree on this site as part of Phase 2 of the project, for the construction of a second whiskey aging building and the expansion of a spill containment basin. The tree is identified on the plan as Tree H. No mitigation was required due to the tree's poor condition."

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended, or new variance request.

Please have the property owner sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there any questions regarding this correspondence, please contact Thomas Panzarella at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/tcp

c: Marian Honeczy, MDDNR

I/We agree to the above conditions to bring my/our property, described herein, into compliance with Baltimore County Forest Conservation Law.

Property Owner(s)

Date

Printed Name(s) of Owner(s)